

OFFICIAL

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: New York

**REQUIREMENTS FOR ADVANCE DIRECTIVES UNDER STATE PLANS
FOR MEDICAL ASSISTANCE**

The following is a written description of the law of the State (whether statutory or as recognized by the courts of the State) concerning advance directives. If applicable States should include definitions of living will, durable power of attorney for health care, durable power of attorney, witness requirements, special State limitations on living will declarations, proxy designation, process information and State forms, and identify whether State law allows for a health care provider or agent of the provider to object to the implementation of advance directives on the basis of conscience.

Established by Chapter 752 of the Laws of 1990 by adding Article 29-c of the Public Health Law. Establishes in statute the right of a competent adult to appoint a health care agent to make decisions about health care treatment for the adult in the event the adult no longer has the capacity to make such decisions.

The law confers no new rights regarding the provision or rejection of any specific health care treatment and affirms existing laws and policies which limit individual conduct, including those laws and policies against homicide, suicide, assisted suicide and mercy killing.

The following are definitions that are applicable:

"Adult" means any person who is eighteen years of age or older, or is the parent of a child, or has married.

"Capacity to make health care decisions" means the ability to understand and appreciate the nature and consequences of health care decisions, including the benefits and risks of and alternatives to any proposed health care, and to reach an informed decision.

"Health Care" means any treatment, service or procedure to diagnose or treat an individual's physical or mental condition.

"Health Care Agent" or "Agent" means an adult to whom authority to make health care decisions is delegated under a health care proxy.

"Health Care Decision" means any decision to consent or refuse to consent to health care.

"Health Care Proxy" means a document delegating the authority to make health care decisions, executed in accordance with the requirements of this law.

TN No. 91 81
Supersedes New Approval Date JAN 15 1992 Effective Date DEC 01 1991
TN No. New

HCFA ID: 7982E